



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 20, 2014

CBCA 3710-RELO

In the Matter of STEPHEN L. MARSHALL

Stephen L. Marshall, Huntsville, AL, Claimant.

Judith A. Fishel, Office of the Command Counsel, Army Materiel Command, Department of the Army, Redstone Arsenal, AL, appearing for Department of the Army.

VERGILIO, Board Judge.

The agency properly denied claimant reimbursement of temporary quarters subsistence expenses associated with relocation when the relocation authorization did not authorize such reimbursement--which is discretionary, not mandatory-- and no error has been shown with regard to the actual travel authorization.

Pursuant to permanent change of station orders, the claimant, Stephen L. Marshall, a civilian employee of the Department of the Army, relocated from outside the continental United States to the contiguous United States. The claimant had exercised return rights, but was returned to a location in the United States different from his departing location. The claimant reported for duty on May 5, 2013. His travel authorization did not identify temporary quarters subsistence expenses (TQSE) as a reimbursable item for his relocation upon returning to the United States. Upon arrival in the United States, the claimant incurred expenses for temporary quarters. After incurring the expenses, the claimant sought reimbursement of TQSE and, in essence, an amendment of his authorization to permit the reimbursement. Disputing the agency's denial, the claimant asks the Board to resolve the dispute.

The applicable Joint Travel Regulations (JTR) specify: "TQSE must be authorized before temporary lodging is occupied and may not be approved after the fact for any days that have passed before TQSE is initially authorized[.]" JTR C5352-D.2. Here, as the agency

concluded, the regulations prohibit the retroactive amendment of the travel authorization. The regulation dictates the result.

The agency has explained to the claimant why it could amend the authorization for residence transaction expenses but not for TQSE. This claimant was entitled to residence transaction expenses, JTR C5010 tbl.6, such that the initial authorization (which did not approve such expenses) was incorrect regarding a non-discretionary matter. For the discretionary TQSE there is an express prohibition on retroactive (after occupancy) authorization, as noted above. The situations are readily distinguishable, given the contrast between mandatory entitlement and discretionary entitlement. Regarding TQSE, the record identifies no error in the drafting and completion of the authorization, even if, as the claimant contends, had TQSE been considered, the agency would have authorized it.

The Board upholds the agency's determination and denies the claimant the requested relief.

JOSEPH A. VERGILIO
Board Judge